

1 TODD BLANCHE
Deputy Attorney General of the United States
2 SIGAL CHATTAH
First Assistant United States Attorney
3 District of Nevada
Nevada Bar Number 8264
4 RANDOLPH J. ST. CLAIR
Assistant United States Attorney
5 400 South Virginia Street, Suite 900
Reno, Nevada 89501
6 Phone: 775-784-5438
7 Randy.StClair@usdoj.gov

8 *Representing the United States of America*

9
10 **UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

11 MOHAMAD ALKARORI,

12 Petitioner,

13 v.

14 UNITED STATES OF AMERICA,

15 Respondent.

Case No. 2:25-cv-02567-MMD-MDC

**United States' Response to
Petitioner's Writ of Habeas Corpus
(ECF No. 1-1)**

16
17 This response is timely filed. *See* ECF No. 11.

18 **I. INTRODUCTION**

19 The United States, through undersigned counsel, herby file their response to
20 Petitioner Mohamad Alkarori's Petition for Writ of Habeas Corpus. ECF No. 1-1. The
21 petition should be denied for the reasons stated below.

22 The petitioner's original order of removal was on October 11, 2019, when an
23 Immigration Judge ("IJ") denied the petitioner's applications for asylum and withholding
24 of removal and ordered him removed to Sudan—his country of citizenship. However, the
25 IJ granted the petitioner Deferral of Removal under the Convention Against Torture
26 ("DCAT"). The petitioner was released from Immigration and Customs Enforcement
27 ("ICE") custody on or about February 10, 2020. Department of Homeland Security
28

1 (“DHS”) records provided to the government, in particular, Form I-213, indicate that the
2 petitioner failed to depart the United States as directed by the IJ.

3 On August 21, 2025, ICE took the petitioner back into custody after discovering he
4 had committed numerous criminal offenses, including at least two crimes of moral
5 turpitude, *after* release from ICE custody to supervision—these offenses constituted a
6 violation of his Order of Supervision. *See generally* Ex. A (Order of Supervision, Feb. 10,
7 2020). As a result, the petitioner is being processed as a final order of removal. *See also* Ex. B
8 (Immigration Judge’s Written Decision, Oct. 11, 2019). ICE worked to remove the
9 petitioner to a safe-third country. The petitioner claimed he had no identification from
10 Sudan. On or about September 17, 2025, ICE advised the petitioner of their intention to
11 remove him to South Sudan.¹ Though a separate country from Sudan, the petitioner
12 expressed fear of being removed to South Sudan but was willing to be removed to either
13 Egypt or Eritrea. On or about September 29, 2025, DHS/ICE began arrangements for the
14 petitioner’s travel to Egypt. According to DHS/ICE, they are still working on the
15 petitioner’s travel arrangements to Egypt, but that transport is imminent.

16 The petitioner filed his Petition (ECF No. 1-1) on December 22, 2025. According to
17 DHS, September 17, 2025, was the date ICE advised the petitioner of their intent to remove
18 him to South Sudan. This was a little over 3 months before he even filed his Petition. The
19 petitioner is well within the six-month reasonable detention period under *Zadvydas*. In
20 addition, DHS informed government counsel that the petitioner’s removal to Egypt is now
21 imminent. And, regarding the risk to the community if the petitioner is released, as listed
22 below, he has an extensive criminal history²:

- 23 • On February 6, 2015, the petitioner was convicted of a Class B
24 Misdemeanor, use or possession of drug paraphernalia, in Salt Lake
25 County, Utah; sentenced to 180 days. Case No. 141912813.

26
27 ¹ The petitioner fears for his safety if he is returned to Sudan. South Sudan is a separate country
from Sudan. Regardless, according to DHS/ICE, his removal to Egypt is now imminent.

28 ² The criminal history items in **bold** below are the two separate and distinct acts found by the IJ to
be offenses that involve moral turpitude, under INA § 237(a)(2)(A)(ii). Ex. B at p. 4.

- 1 • On February 6, 2015, the petitioner was convicted of a Class A
2 Misdemeanor; possession or use of a controlled substance, Salt Lake
3 County, Utah; sentenced to 365 days. Case No. 141912813.
- 4 • On August 7, 2015, the petitioner was convicted of a Class B
5 Misdemeanor, possession of drug paraphernalia, Salt Lake County,
6 Utah, sentenced to 90 days. Case No. 151901520.
- 7 • On August 7, 2015, the petitioner was convicted of a Class B
8 Misdemeanor, possession of a controlled substance, Salt Lake
9 County, Utah, sentenced to 90 days. Case No. 151901520.
- 10 • On January 3, 2018, the petitioner was convicted of a Class B
11 Misdemeanor, possession of marijuana, Salt Lake County, Utah,
12 sentenced to 180 days. Case No. 171402581.
- 13 • On January 3, 2018, the petitioner was convicted of a Class B
14 Misdemeanor, trespassing, Salt Lake City Justice Court, Salt Lake
15 County, Utah, sentenced to 5 days. Case No. 171409262.
- 16 • On August 21, 2018, the petitioner was convicted of a Class A
17 Misdemeanor, assault against a police officer/military service
18 member, Salt Lake County, Utah, sentenced to 365 days. Case No.
19 1819900017.
- 20 • On September 11, 2018, the petitioner was convicted of a Class B
21 Misdemeanor, possession of controlled substance, Salt Lake City
22 Justice Court, Salt Lake County, Utah, sentenced to 10 days. Case
23 No. 181401289.
- 24 • **On August 21, 2018, the petitioner was convicted of a Class A**
25 **Misdemeanor, distribute/offer/arrange distribution of controlled**
26 **substance, Salt Lake County, Utah, sentenced to 365 days. Case**
27 **No. 181906534.**
- 28 • **On October 19, 2018, the petitioner was convicted of a 3rd Degree**
Felony, possession with intent to distribute controlled substance,
Salt Lake County, Utah, sentenced to 5 years prison. Case No.
181909759.
- On June 12, 2020, the petitioner was convicted of a Class A
Misdemeanor, aggravated assault, Salt Lake County, Utah,
sentenced to 240 days. Case No. 201904622.
- On July 20, 2022, the petitioner was convicted of a Class B
Misdemeanor, retail theft (shoplifting), Salt Lake City Court, Salt
Lake County, Utah, sentenced to 90 days. Case No. 211403840.

- 1 • On July 20, 2022, the petitioner was convicted of a Class B
2 Misdemeanor, criminal trespass, Salt Lake City Justice Court, Salt
3 Lake County, Utah. Case No. 211403840. (no term of imprisonment
4 indicated)
- 4 • On May 1, 2023, the petitioner was convicted of a Class A
5 Misdemeanor, aggravated assault, Salt Lake County, Utah,
6 sentenced to 364 days. Case No. 211912184.
- 7 • On April 7, 2025, the petitioner was convicted of a Class B
8 Misdemeanor, use/possession of drug paraphernalia, Salt Lake City
9 Justice Court, Salt Lake County, Utah, sentenced to 180 days. Case
10 No. 251402162

10 Ex. D (I-213, Record of Deportable/Inadmissible Alien, Aug. 21, 2025) at pp. 2-3.

11 The petitioner now brings a habeas action under 28 U.S.C. § 2241 seeking
12 immediate release. But the Court does not have jurisdiction over the Petition, because 8
13 U.S.C. § 1252 bars review of the petitioner’s claims. Even if the Court had jurisdiction, the
14 claims fail on the merits. The procedures followed by DHS regarding the petitioner’s
15 supervised release, revocation, and detention complied with the INA and relevant
16 regulations. They provided notice and opportunities for review. The Court should dismiss
17 the petition.

18 II. ARGUMENT

19 A. Procedural Background

20 The petitioner filed his Petition for Writ of Habeas Corpus on December 22, 2025.
21 ECF No. 1-1. On December 23, 2025, the Court ordered the government to “file and serve
22 their response to the Petition within fourteen days of the date of this Order, unless
23 additional time is allowed for good cause shown.” ECF No. 3 at 3:6-8. This office
24 contacted the relevant agencies on December 23, 2025, to request the petitioner’s records
25 and information regarding this matter. Government counsel moved for an extension of the
26 deadline to response which the Court granted. *See* ECF Nos. 9 and 11. The deadline for the
27 government’s response moved to January 16, 2026. *See* ECF No. 11. The petitioner now has
28 until January 23, 2026, to file a reply. *Id.*

1 In his Petition, the petitioner makes generalized challenges to his detention; 1)
2 “wasting my time in I.C.E Detention with NO allegations or charges” (ECF No. 1-1 at 2 ¶
3 6) and 2) under grounds for his challenge, he states, “There is no factual reason why I.C.E.
4 has me in Detention with No charges or allegations. I had won my immigration procedures
5 in 2019.” *Id.* at 6 ¶ 13. These are not viable claims, and they are bereft of any supporting
6 facts. His second allegation that he “won [his] immigration procedures in 2019” is not
7 legally or factually correct because the petitioner has a final order of removal and is
8 awaiting deportation. *See generally* Ex. B and A.

9 **B. Relevant Statutory and Regulatory Background**

10 **1. Removal and Detention Under 8 U.S.C. § 1231(a)**

11 Where, as here, an alien is subject to a final order of removal, there is a 90-day
12 “removal period,” during which the government “shall” remove the alien. 8 U.S.C. §
13 1231(a)(1). Detention during this period is mandatory. *See* 8 U.S.C. § 1231(a)(2). And the
14 mandatory removal period begins on the latest of three possible dates: (1) the date an order
15 of removal becomes “administratively final,” (2) the date of the final order of any court that
16 entered a stay of removal, or (3) the date the alien is released from non-immigration
17 detention. 8 U.S.C. § 1231(a)(1)(B). There are at least three potential outcomes in the event
18 the government does not remove an alien during the 90-day mandatory removal period.
19 First, the government may release the alien subject to conditions of supervised release. *See*
20 8 U.S.C. § 1231(a)(3). Second, the government may extend the removal period if the alien
21 “fails or refuses to make timely application in good faith for travel or other documents
22 necessary to the alien’s departure or conspires or acts to prevent the alien’s removal subject
23 to an order of removal.” 8 U.S.C. § 1231(a)(1)(C). And finally, the government may further
24 detain certain categories of aliens, including those “inadmissible” under 8 U.S.C. § 1182. *See*
25 8 U.S.C. § 1231(a)(6). Continued detention under this latter category is often referred to as
26 the “post-removal-period.” *Johnson v. Guzman Chavez*, 594 U.S. 523, 529 (2021). The INA
27 does not place an explicit time limit on how long detention during the “post-removal-period”
28 can last. *See Johnson v. Arteaga-Martinez*, 596 U.S. 573, 579 (2022). But the Supreme Court

1 has held that the government may only detain aliens in the post-removal-period for the time
2 “reasonably necessary to bring about that alien’s removal from the United States.” *Zadvydas*
3 *v. Davis*, 533 U.S. 678, 689 (2001). And the Supreme Court further clarified that a six-month
4 period of detention is “presumptively reasonable.” *Id.* at 701. “After this 6-month period,
5 once the alien provides good reason to believe that there is no significant likelihood of
6 removal in the reasonably foreseeable future, the Government must respond with evidence
7 sufficient to rebut that showing.” *Id.*

8 **2. Orders of Supervision**

9 In the event the government does not further detain and instead releases the alien at
10 the end of the 90-day mandatory removal period, the government must do so under
11 conditions of supervised release. *See* 8 U.S.C. § 1231(a)(3) (providing that an alien who
12 “does not leave or is not removed within the removal period ... shall be subject to
13 supervision”); *see also* 8 C.F.R. §§ 241.4(j); 241.5. Regulations promulgated pursuant to the
14 INA require that conditions of supervised release include reporting to an immigration
15 officer; making “efforts to obtain a travel document and assist[ing] the [government] in
16 obtaining a travel document”; reporting for physical and mental examinations; obtaining
17 advance approval of travel; and providing ICE with written notice of any address changes.
18 *See* 8 C.F.R. § 241.5(a). If the alien violates a condition of release, the government can revoke
19 the order of supervision and return the alien to custody. *See* 8 C.F.R. § 241.4(l). In that
20 scenario, the government must notify the alien of “the reasons for revocation,” and
21 “conduct an initial interview promptly” to give the alien “an opportunity to respond to the
22 reasons for revocation stated in the notification.” *See id.* § 241.4(l)(1). If the alien is not
23 released after the initial interview, there is a subsequent review process, one which entails a
24 records review and scheduling of an interview which ordinarily takes place within three
25 months of the revocation of release. *Id.* § 241.4(l)(3). The final review includes an evaluation
26 of any disputed facts, and a decision as to whether the facts as determined support revocation
27 and further denial of release. *Id.* Thereafter, the government conducts annual custody
28 reviews in accordance with 8 C.F.R. §§ 241.4(i), (j), and (k). *Id.*

1 **a. Suspension of Removal Under 8 U.S.C. § 1231(a)(1)(C)**

2 As noted above, a separate basis for detention of aliens with final orders of removal
3 is via an extension of the removal period in circumstances where the alien “fails or refuses to
4 make timely application in good faith for travel or other documents necessary to the alien’s
5 departure.” 8 U.S.C. § 1231(a)(1)(C). In such cases, the government must serve the alien a
6 “Notice of Failure to Comply,” which sets forth the relevant statutory provisions in play (8
7 U.S.C. §§ 1231(a)(1)(C), 1253(a)), and provides “an explanation of the necessary steps that
8 the alien must take in order to comply with the statutory requirements.” 8 C.F.R. §
9 241.4(g)(5)(ii). The government must also advise the alien that the “Notice of Failure to
10 Comply shall have the effect of extending the removal period as provided by law, if the
11 removal period has not yet expired,” and that the government is not required to complete
12 any scheduled custody reviews under 8 C.F.R. § 241.4 until the alien has “demonstrated
13 compliance with the statutory obligations.” *Id.* § 241.4(g)(5)(iii).

14 **b. Removal to Third Country**

15 As a general matter, aliens ordered removed “may designate one country to which
16 [he or she] wants to be removed,” and DHS “shall remove the alien to [that] country[.]” 8
17 U.S.C. § 1231(b)(2)(A). In certain cases, however, DHS will not remove the alien to his or
18 her designated country, including if “the government of the country is not willing to accept
19 the alien into the country.” *Id.* § 1231(b)(2)(C)(iii). In that scenario, the alien “shall” be
20 removed to his or her country of nationality or citizenship, unless the country “is not
21 willing to accept” the alien.” *Id.* § 1231(b)(2)(D). If, however, the alien cannot be
22 removed to a country of designation or the country of nationality or citizenship, then the
23 government may consider other options, including “[t]he country from which the alien was
24 admitted to the United States,” “[t]he country in which the alien was born,” or “[t]he
25 country in which the alien last resided[.]” *Id.* §§ 1231(b)(2)(E)(i), (iii)-(iv). Where removal
26 to any of the countries listed in subparagraph (E) is “impracticable, inadvisable, or
27 impossible,” then the alien may be removed to any “country whose government will
28 accept the alien into that country.” *Id.* § 1231(b)(2)(E)(vii); *see Jama v. Immigr. & Customs*

1 *Enft*, 543 U.S. 335, 341 (2005). In addition, DHS “may not remove an alien to a country if
2 the Attorney General decides that the alien’s life or freedom would be threatened in that
3 country because of [his or her] race, religion, nationality, membership in a particular social
4 group, or political opinion,” 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. §§ 208.16(a)-(b),
5 1208.16(a)-(b), or if it is more likely than not that the alien would be tortured, 8 C.F.R. §§
6 208.16(c), 208.17, 1208.16(c), 1208.17.

7
8 **i. An Alien Who Is a Risk to the Community or Unlikely to Comply**
9 **With the Order of Removal May Be Detained Beyond the Removal**
10 **Period**

11 Pursuant to § 241(a)(6) of the INA, an alien determined by the Attorney General to
12 be a risk to the community or unlikely to comply with the order of removal, may be
13 detained beyond the removal period. As ICE is looking to remove this alien to a safe-third
14 country, Egypt, the petitioner is properly detained in ICE custody.

15 A prior ruling by the Ninth Circuit Court of Appeals stated, “[w]hen detention
16 crosses the six-month threshold and release, or removal is not imminent, the private
17 interests at stake are profound,” and held “an alien facing prolonged detention under §
18 1231(a)(6) is entitled to a bond hearing before an immigration judge.” *Diouf v. Napolitano*,
19 634 F.3d 1081, 1091-1092 (9th Cir. 2011). But this principle was rejected by the U.S.
20 Supreme Court in *Jennings v. Rodriguez*, 583 U.S. 281 (2018) (holding that the Ninth Circuit
21 misapplied the constitutional avoidance canon to find a statutory right under 8 U.S.C. §
22 1226(a) to “periodic bond hearings every six months in which the Attorney General must
23 prove by clear and convincing evidence that the alien's continued detention is necessary.”).

24 Then, following *Jennings*, the Ninth Circuit upheld the “construction of § 1231(a)(6)
25 to require a bond hearing before an IJ after six months of detention for an alien whose
26 release or removal is *not imminent*” with the government “bear[ing] a clear and convincing
27 burden of proof at such a bond hearing to justify an alien's continued detention.” *Aleman*
28 *Gonzalez v. Barr*, 955 F.3d 762, 766 (9th Cir. 2020) (emphasis added). Again, the Supreme
Court reversed on other grounds, *Garland v. Aleman Gonzalez*, 596 U.S. 543, 546 (2022), and

1 “[i]n a companion case decided that same day in a case arising from the Third Circuit,
2 *Johnson v. Arteaga-Martinez*, [596] U.S. [573], 142 S. Ct. 1827 (2022), the Supreme Court
3 separately rejected [the Ninth Circuit’s] statutory interpretation in *Aleman Gonzalez*,”
4 *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1201 (9th Cir. 2022) (holding that “there is no
5 plausible construction of the text of § 1231(a)(6) that requires the Government to provide
6 bond hearings before immigration judges after six months of detention, with the
7 Government bearing the burden of proving by clear and convincing evidence. *Id.* at 1833.
8 *See also Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1201 (9th Cir. 2022).

9 In this case, after violating the terms of his supervised release, and with a final order of
10 removal in place, the petitioner was taken back into custody on August 21, 2025. As such,
11 he has not even been in ICE custody for over six months to constitute indefinite detention.
12 And regardless, the petitioner’s removal to Egypt is imminent.

13 c. The INA and Real ID Act Deprive This Court of Jurisdiction

14 Federal courts are courts of limited jurisdiction. *See Kokkonen v. Guardian Life Ins. Co.*
15 *of Am.*, 511 U.S. 375, 377 (1994). They “possess only that power authorized by Constitution
16 and statute, which is not to be expanded by judicial decree.” *Id.* (citations omitted); *see*
17 *also Sheldon v. Sill*, 49 U.S. 441, 448 (1850) (“Courts created by statute can have no
18 jurisdiction but such as statute confers.”); *cf. Romano v. Warden, FCI Fairton*, No. 23-2919
19 (CPO), 2025 WL 1189877, at *8 (D.N.J. Apr. 24, 2025) (observing, in prison habeas context
20 “[f]ederal courts are courts of limited jurisdiction,” and where “Congress has committed a
21 decision to the unreviewable discretion of the BOP . . . § 2241 offers no basis for judicial
22 intervention.”). Through this habeas action, petitioner challenges his present detention for
23 purposes of executing a final order of removal. Congress, however, divested this Court from
24 hearing such claims by way of the INA and the REAL ID Act. *See* 8 U.S.C. §§ 1252(b)(9),
25 (g). For these reasons, as discussed below, the Court lacks jurisdiction over the petitioner’s
26 claims challenging his detention pending removal. At the outset, 8 U.S.C. § 1252(g), as
27 amended by the REAL ID Act, deprives courts of jurisdiction—including habeas corpus
28 jurisdiction—over reviewing “any” claim “arising from the decision or action” to (among

1 other things) “execute removal orders.” Put differently, this provision bars habeas review in
 2 federal district court of claims arising from a decision or action to “execute” a final order of
 3 removal. *See Reno v. American Arab Anti-Discrimination Committee (“AADC”)*, 525 U.S. 471,
 4 482 (1999).³ That provision bars the petitioner’s claims here.

5 Indeed, every circuit court of appeals to address the issue—including the Third
 6 Circuit—has held that § 1252(g) eliminates subject-matter jurisdiction over habeas
 7 challenges (including those raising constitutional claims) to an arrest or detention for the
 8 purpose of executing a final removal order. *See Tazu v. Atty. Gen.*, 975 F.3d 292, 297 (3d Cir.
 9 2020) (“The plain text of § 1252(g) covers decisions about *whether* and *when* to execute a
 10 removal order.”); *see also Rauda v. Jennings*, 55 F.4th 773, 778 (9th Cir. 2022) (holding court
 11 lacked jurisdiction over habeas challenge to the exercise of discretion to execute removal
 12 order); *E.F.L. v. Prim*, 986 F.3d 959, 964–65 (7th Cir. 2021) (holding § 1252(g) barred review
 13 of decision to execute removal order while individual sought administrative relief);
 14 *Camarena v. Dir., ICE*, 988 F.3d 1268, 1274 (11th Cir. 2021) (“[W]e do not have jurisdiction
 15 to consider ‘any’ cause or claim brought by an alien arising from the government’s decision
 16 to execute a removal order. If we held otherwise, any petitioner could frame his or her
 17 claim as an attack on the government’s *authority* to execute a removal order rather than its
 18 *execution* of a removal order.”); *Hamama v. Adducci*, 912 F.3d 869, 874 (6th Cir. 2018)
 19 (“Under a plain reading of the text of the statute, the Attorney General’s enforcement of

20 / / /

21 / / /

22 / / /

24
 25 ³ Congress initially passed § 1252(g) in the Illegal Immigration Reform and Immigrant
 26 Responsibility Act of 1996, Pub. L. 104-208, 110 Stat. 3009. In 2005, Congress amended § 1252(g) by
 27 adding “(statutory or nonstatutory), including section 2241 of title 28, United States Code, or any
 28 other habeas corpus provision, and sections 1361 and 1651 of such title” after “notwithstanding
 any other provision law.” REAL ID Act of 2005, Pub. L. 109-13, § 106(a), 119 Stat. 231,
 311. After Congress enacted the Homeland Security Act of 2002, § 1252(g)’s reference to the
 “Attorney General” includes the Secretary of Homeland Security. 6 U.S.C. § 202(3).

1 long-standing removal orders falls squarely under the Attorney General’s decision to
2 execute removal orders and is not subject to judicial review.”⁴

3 The Third Circuit’s decision in *Tazu* is instructive. There, the petitioner sought to
4 challenge the government’s decision to re-detain him for prompt removal. In the petitioner’s
5 case, based on the procedural history, and contrary to his statements of ignorance in his
6 Petition, there is no doubt he is aware that he is subject to a final order of removal. He
7 violated his conditions of supervised release by committing crimes of moral turpitude (the
8 Class A Misdemeanor, distribute/offer/arrange distribution of controlled substance and a
9 felony, possession with intent to distribute controlled substance (*See* Ex. D at p. 3 and Ex. B
10 at Sec. 4, pp. 4-5)) and he is in the process of removal to a third country, Egypt, which is
11 imminent. All of this belies his grounds for a challenge (ECF 1-1 at 6 ¶ 13) where he claims
12 “[t]here is no factual reason why I.C.E. has me in Detention . . .”. There are no viable
13 allegations of any violation of due process here. *See Tazu*, 975 F.3d at 298. The Third
14 Circuit found that claim barred by 8 U.S.C. § 1252(g) because it sought to challenge “a key
15 part of executing” a removal order: a “short re-detention for removal.” *Id.* As the Third
16 Circuit recognized, re-detaining the petitioner was “simply the enforcement mechanism the
17 [government] picked to execute [the petitioner’s] removal order.” *Id.* at 298-99. And §
18 1252(g) “funnels review” of such claims away from the district courts, and to the courts of
19 appeals through a petition for review. *Id.* at 299. Here, as in *Tazu*, the petitioner challenges
20 the enforcement mechanism utilized to execute his final order of removal: his immigration
21 detention and pending removal to third country – Egypt. Here, as in *Tazu*, this Court lacks
22 jurisdiction over such claims under 8 U.S.C. § 1252(g).

23
24
25 ⁴ Relatedly, § 1252(g) bars district court review of challenges to the method by which DHS chooses to
26 commence removal proceedings. *See Alvarez v. ICE*, 818 F.3d 1194, 1203 (11th Cir. 2016) (“By its
27 plain terms, [§ 1252(g)] bars us from questioning ICE’s discretionary decisions to commence
28 removal—and thus necessarily prevents us from considering whether the agency should have used a
different statutory procedure to initiate the removal process.”); *Saadulloev v. Garland*, No. 3:23-CV-
00106, 2024 WL 1076106, at *3 (W.D. Pa. Mar. 12, 2024) (“The Government’s decision to arrest
Saadulloev on April 4, 2023, clearly is a decision to ‘commence proceedings’ that squarely falls
within the jurisdictional bar of § 1252(g).”

1 The petitioner's challenge, regarding the execution of his final removal order are also
2 foreclosed under 8 U.S.C. § 1252(b)(9).⁵ In passing the REAL ID Act, Congress prescribed
3 a single path for Article III review of removal orders: "a petition for review filed with an
4 appropriate court of appeals." 8 U.S.C. § 1252(a)(5); *see also Verde-Rodriguez v. Atty. Gen.*,
5 734 F.3d 198, 201 (3d Cir. 2013). And as the REAL ID Act further provides. "[j]udicial
6 review of *all questions of law and fact*, including interpretation of constitutional and statutory
7 provisions, *arising from any action taken or proceeding brought to remove an alien from the United*
8 *States* under this subchapter shall be available only in judicial review of a final order under
9 this section." 8 U.S.C. § 1252(b)(9) (emphasis added). Read in conjunction, 8 U.S.C. §
10 1252(b)(9) and § 1252(a)(5) express Congress's intent to funnel judicial review of every
11 aspect of removal proceedings into a petition for review filed in the courts of appeals. *See*
12 *Nasrallah v. Barr*, 590 U.S. 573, 580 (2020) (recognizing that these provisions "clarified that
13 final orders of removal may not be reviewed in district courts, even via habeas corpus, and
14 may be reviewed only in the courts of appeals."); *see also Bonhometre v. Gonzales*, 414 F.3d
15 442, 446 (3d Cir. 2005) (highlighting Congress's "clear intent to have all challenges to
16 removal orders heard in a single forum (the courts of appeals)" via petition for review).
17 These provisions sweep more broadly than § 1252(g). *See AADC*, 525 U.S. at 483. Indeed,
18 pursuant to § 1252(b)(9) ad 1252(a)(5), "most claims that even relate to removal" are
19 improper if brought before the district court. *E.O.H.C. v. DHS*, 950 F.3d 177, 184 (3d Cir.
20 2020); *see also AADC*, 525 U.S. at 483 (describing § 1252(b)(9) as an "unmistakable zipper
21 clause," and defining a zipper clause as one "that says 'no judicial review in deportation
22 cases unless this section provides judicial review.'"). Here, 8 U.S.C. § 1252(b)(9) deprives this
23 Court of jurisdiction over the petitioner's claims.

24 Once again, the Third Circuit's *Tazu* decision guides the analysis. In another part of
25 that decision, the Third Circuit held that the same claims concerning a revocation of
26 supervised release and re-detention which were barred under 1252(g) were also barred under
27

28 ⁵ The petitioner's challenge is bereft of supporting facts on this point, but the government makes this argument in anticipation of a future possible argument by the petitioner.

1 1252(b)(9) because the claims arose from actions taken to execute the petitioner’s removal.
2 975 F.3d at 299. Here, as in *Tazu*, the petitioner’s claims challenge the government’s
3 decision to revoke supervised release and detain him for removal. The petitioner’s claims
4 arise directly out of actions taken to remove him, and the questions raised by those claims
5 are intertwined with his removal. *See id.* Another recent decision from the District Court in
6 *Khalil v. Joyce*, No. 25-1963 (MEF), ECF No. 214, 2025 WL 1232369 (D.N.J. Apr. 29,
7 2025), does not cast doubt on the conclusion that 8 U.S.C. §§ 1252(g) and 1252(b)(9) apply
8 here. In that case, unlike here, the petitioner had not been issued a final removal order, and
9 so the District Court concluded that § 1252(b)(9) did not apply because that provision “takes
10 away federal district court jurisdiction only after an order of removal has been entered,” and
11 “none ha[d] been entered” in that case. *Id.* at *60. As to § 1252(g), the District Court found
12 that it was inapplicable because the provision “pulls away jurisdiction over specific actions”
13 by DHS—“not over actions by the Secretary of State, like [the] determination” at issue, “and
14 not over across-the-board policies, like the one alleged” in that case. *Id.* Here, the petitioner
15 does not challenge any action by the Secretary of State, nor does he attack any alleged broad-
16 based policies. The reasoning behind the recent jurisdictional decision in *Khalil* does not
17 affect the conclusion here. That conclusion, for the reasons above, is that the petitioner’s
18 claims fall within the INA’s jurisdiction-stripping provisions in 8 U.S.C. §§ 1252(g) and
19 1252(b)(9), so the Court should dismiss the petition for lack of jurisdiction. ⁶

20 **d. Petitioner’s Detention is Lawful**

21 There is no dispute that the petitioner is subject to a final order of removal. *See*
22 *generally* Ex. B. As a result, the “post-order” detention provisions of 8 U.S.C. § 1231

23 _____
24 ⁶ The government is also aware of an out-of-district case *Patel v. Barr*, No. 20-3856, 2020 WL
25 6888250, at *3 (E.D. Pa. Nov. 24, 2020), but respectfully submit that the case is also distinguishable.
26 In *Patel*, the district court held that the jurisdiction-stripping provisions in 8 U.S.C. §§ 1252(b)(9) and
27 1252(g) did not apply, notwithstanding *Tazu*, because while *Tazu* had a pending petition for review
28 and had been granted a stay of removal, *Patel* had neither. Because, in *Patel*, the Board of
Immigration Appeals delayed ruling on *Patel*’s various motions, the court found that *Patel* “ha[d] no
access to judicial review.” *Id.* at *3. Here, however, the petitioner’s immigration decisions are
administratively final. The petitioner could have sought review of the immigration judge’s decision.
But he did not and waived his administrative appeal thus rendering the decision by the IJ
administratively final.

1 govern. Those provisions require a 90-day mandatory removal period during which
2 immigration officials must detain the alien while attempting to secure his or her removal.
3 *See* 8 U.S.C. §§ 1231(a)(1), (2); *see Zadvydas*, 533 U.S. 683 (“After entry of a final removal
4 order and during the 90-day removal period quo . . . aliens must be held in custody.”
5 (internal citation omitted)). Congress, however, provided for the detention of aliens
6 following the 90-day removal period in certain circumstances. As discussed, the Supreme
7 Court has interpreted 8 U.S.C. § 1231(a)(6) to allow for post-order detention for a period
8 “reasonably necessary to bring about the alien’s removal from the United States.”
9 *Zadvydas*, 533 U.S. at 689. And the Court held that detention for a period of six months is
10 “presumptively reasonable.” *Id.* After that six-month period, the alien bears the burden of
11 showing that “there is no significant likelihood of removal in the reasonably foreseeable
12 future.” *Id.* If the alien successfully makes that showing, “the Government must respond
13 with evidence sufficient to rebut that showing.” *Id.* In addition, the 90-day removal period
14 may be tolled and the alien “may remain in detention during such extended period if [he or
15 she] fails or refuses to make timely application in good faith for travel or other documents
16 necessary to the alien’s departure or conspires or acts to prevent the alien’s removal subject
17 to an order of removal.” 8 U.S.C. § 1231(a)(1)(C). Here, the petitioner challenges his
18 present detention. But he was taken into custody on August 22, 2025, under his final
19 removal order from October 11, 2019. *See* Ex. C – Warrant for Arrest of Alien. His
20 detention is lawful and presumptively reasonable under *Zadvydas*, because the petitioner
21 filed his petition challenging his detention approximately 4 months after enforcement of his
22 final removal order began, when he was taken into custody on August 22, 2025. *Id.* In the
23 petitioner’s case, the six-month reasonable detention period under *Zadvydas* ends on
24 February 22, 2026. To hold otherwise, the petitioner would have to demonstrate that he has
25 been in (1) “post-removal order detention in excess of six months,” and there is (2) “evidence
26 of a good reason to believe that there is no significant likelihood of removal in the
27 reasonably foreseeable future.” *Jaime F. v. Barr*, No. 19-20706 (ES), 2020 WL 2316437, at
28 *5 (D.N.J. May 11, 2020) (quotation omitted); *see also, e.g., Di Wang v. Carbone*, Civ. No.

1 05-2386 (JAP), 2005 WL 2656677 at *3 (D.N.J. Oct. 17, 2005). The petitioner makes
2 neither showing.

3 **i. Petitioner’s *Zadvydas* Claim Is Premature**

4 At the outset, the petitioner’s *Zadvydas* claim is premature because he has been
5 detained on a final order of removal for less than the “presumptively reasonable” six-month
6 period. *See* 533 U.S. at 701. Based on a straightforward application of *Zadvydas*, any
7 challenge to a post-removal-order detention by an alien who has been detained “for less than
8 six months must be dismissed as premature.” *Kevin A.M. v. Essex Cnty. Corr. Facility*, No. 21-
9 11212 (SDW), 2021 WL 4772130, at *2 (D.N.J. Oct. 12, 2021); *see also Luma v. Aviles*, No.
10 13-6292 (ES), 2014 WL 5503260, at *4 (D.N.J. Oct. 29, 2014) (“To state a claim under
11 *Zadvydas*, the presumptively reasonable six-month removal period must have expired at the
12 time the Petition was filed; any earlier challenge to post-removal-order detention is
13 premature and subject to dismissal.”). In this case, after the final order of removal, the
14 petitioner was allowed to be on supervised release for almost 6 years, during which time he
15 committed at least five new crimes that we know of, two of which were deemed by the IJ as
16 crimes of moral turpitude. *See generally* Ex. A and *see* Ex. D. at p. 3. The Court should
17 dismiss the Petition without prejudice as premature because the petitioner has not been
18 detained beyond the six-month period set forth in *Zadvydas*.

19 **ii. Petitioner Cannot Establish That There Is No Significant**
20 **Likelihood of His Removal in The Reasonably Foreseeable**
21 **Future**

22 The petitioner cannot demonstrate that there is no significant likelihood of removal
23 in the reasonably foreseeable future. *See Zadvydas*, 533 U.S. at 701 (explaining alien
24 challenging detention beyond six-month period bears burden of showing there is no
25 significant likelihood of removal in reasonably foreseeable future). “Numerous courts in this
26 District have held that a detainee’s failure to cooperate in obtaining travel documents
27 precludes a finding that his or her removal is not reasonably foreseeable.” *Ugarte v. Green*,
28 No. 17-1436 (SRC), 2017 WL 6376498, at *3 (D.N.J. Dec. 13, 2017) (collecting cases); *see*

1 also, e.g., *Conceicao v. Holder*, No. 12–4668, 2013 WL 1121373, at *3 (D.N.J. Mar. 13,
2 2013) (“[W]here Petitioner is refusing to sign the necessary travel documents, he has failed
3 to cooperate in his removal and has failed, in this Court, to establish that there is no
4 likelihood of his removal in the reasonably foreseeable future.”); *Camara v. Gonzales*, No. 06–
5 1568, 2007 WL 4322949, at *4 (D.N.J. Dec. 6, 2007) (finding petitioner did not state
6 constitutional claim under *Zadvydas* due to failure to cooperate with obtaining necessary
7 travel documentation). Here, the petitioner received a final order of removal on October 11,
8 2019, and his supervision commenced February 10, 2020. *See generally* Ex. B and A. But he
9 does not allege he made any attempt to cooperate in his removal in the almost 6 years since
10 then. He does not allege that he made any effort to obtain travel documents, such as by
11 submitting applications for travel documents to embassies or consulates as was required by
12 the Order of Supervision and the INA. That failure to cooperate in removal forecloses the
13 petitioner’s *Zadvydas* claim.

14 For similar reasons, the petitioner’s detention is also lawful under 8 U.S.C. §
15 1231(a)(1)(C), which provides for suspension of the removal period and detention “beyond
16 a period of 90 days” if an alien “fails or refuses to make timely application in good faith for
17 travel or other documents necessary to [his or her] departure.” “Courts have long held that
18 [8 U.S.C. § 1231(a)(1)(C)] not only stands for the proposition that the removal period may
19 be extended where an alien is the impediment to his [or her] own removal, but also that
20 such an alien cannot demand his [or her] release under *Zadvydas* as he [or she] has the keys
21 to his [or her] freedom in his [or her] pocket and could likely effectuate his [or her] removal
22 by providing the necessary information to the appropriate officials.” *Bailey v. Lynch*, No. 16-
23 2600 (JLL), 2016 WL 5791407, at *3 (D.N.J. Oct. 3, 2016). Here, again, the petitioner

24 / / /

25 / / /

26 / / /

27 / / /

28

1 does not allege that he made any effort to assist in his removal, which is a basis for
2 revocation of his supervised release.⁷ *See* Ex. A at p. 1. In addition, once the petitioner was
3 detained prior to his final removal order, he filed for a Deferral of Removal under the
4 Convention Against Torture, which was granted at the time of his final removal order, on
5 October 11, 2019. Again, the petitioner did not appeal that order and according to
6 DHS/ICE his removal to Egypt is imminent.

7 In the end, the INA imposes an affirmative duty on an alien “to make timely
8 application in good faith for travel and other documents necessary to [his or her] departure,”
9 and prescribes criminal penalties for willful failure to do so. *See* 8 U.S.C. § 1253(a)(1).
10 Courts examining prolonged detention claims have thus considered whether a petitioner has
11 acted in a manner as to hinder or prevent removal such that the six-month presumptively
12 reasonable period under *Zadvydas* should be tolled. Where an alien “takes actions delaying
13 his/her removal (e.g. by refusing to cooperate with the ICE’s removal efforts),” he or she
14 “cannot demand his/her release upon expiration of these six months.” *Xiangquan v. Holder*,
15 No. 12-7650 (MAS), 2013 WL 1750145, at *3 (D.N.J. Apr. 23, 2013). “The reason is self-
16 evident:” when an alien does not demonstrate that he or she has made good faith efforts to
17 assist with securing travel documents necessary to effectuate his or her removal, the alien,
18 once detained, “cannot convincingly argue that there is no significant likelihood of removal in
19 the reasonably foreseeable future if the detainee controls the clock.” *Pelich v. INS*, 329 F.3d
20 1057, 1060 (9th Cir. 2003). Accordingly, “*Zadvydas* does not save an alien who fails to
21

22 ⁷ Whether ICE has formally served the petitioner with a Notice of Failure to Comply under 8 C.F.R.
23 § 241.4(g)(1)(ii) does not foreclose application of 8 U.S.C. § 1231(a)(1)(C) here. Indeed, the
24 governing regulations specifically provide that “[t]he fact that [DHS] does not provide a Notice of
25 Failure to Comply within the 90-day removal period, to an alien who has failed to comply with
26 the requirements of 8 U.S.C. § 1231(a)(1)(C)] shall not have the effect of excusing the alien’s
27 conduct.” 8 C.F.R. § 241.4(g)(5)(iv); *see also* *Ling v. Hendricks*, No. 13-7610 (KM), 2014 WL 1310294,
28 at *6 n. 2 (D.N.J. Mar. 27, 2014). Accordingly, courts have found the removal period extended
under 8 U.S.C. § 1231(a)(1)(C) even where the government has not yet technically served a Notice of
Failure to Comply. *See id.*; *see also* *de Souza Neto v. Smith*, No. 17-11979, 2017 WL 6337464, at *1 n.
2 (D. Mass. Oct. 16, 2017) (“Although [petitioner] alleges that ICE did not provide her with a
Notice of Failure to Comply under 8 C.F.R. § 241.4(g)(1)(ii) that her removal period has been
extended, the lack of notice ‘shall not have the effect of excusing the alien’s conduct.’ 8 C.F.R. §
241.4(g)(5)(iv)”).

1 provide requested documentation to effectuate his removal.” *U.S. ex rel. Kovalev v. Ashcroft*,
2 71 F. App’x 919, 924 (3d Cir. 2003) (quoting *Pelich*, 329 F.3d at 1060). Such is the case
3 here. For the reasons above, assuming the Court finds habeas jurisdiction, the Court should
4 dismiss the *Zadvydas* claim on the merits.⁸

5 **iii. Petitioner’s Detention Complies with Due Process**

6 The same conclusion applies as to the petitioner’s due process challenge. The basic
7 elements of due process are notice and an opportunity to be heard. *See Matthews v. Eldridge*,
8 424 U.S. 319, 333 (1976). Here, the petitioner had a removal order from an IJ issued on
9 October 11, 2019. *See* Ex. B. The petitioner failed to appeal that final order of removal. After a
10 period of mandatory detention, the petitioner was placed on supervised release with the
11 conditions that he needed in good faith to reach out to embassies and consulates to obtain travel
12 documents for his removal and provide written proof of such efforts. The petitioner failed to do
13 so for almost 6 years. In the meantime, as noted above, rather than seek documents to assist in
14 his removal, he continued to engage in criminal activity. Given all the above, the Petition
15 should be denied.

16 **iv. Any Due Process Claim Regarding Third Country Removal**
17 **Fails**

18 To the extent that the petitioner presses an additional due process claim based on the
19 absence of any present indication of supposed third country removal efforts that claim fails as
20 well. A procedural due process claim, as noted above, has two elements: (1) notice, and (2)
21 an opportunity to be heard. *See Matthews*, 424 U.S. at 333. And here, the petitioner has not
22 demonstrated he was deprived of these requirements. He has been detained since August 22,
23 2025. According to DHS/ICE, his removal to Egypt is imminent. It was the petitioner who
24 requested removal to this third country. The petitioner waived an appeal to his final order of
25 removal. Accordingly, the DHS and the State Department are working diligently in
26

27
28 ⁸ The *Zadvydas* claim is not subject to the jurisdiction-stripping provisions discussed above. *See Tazu*,
975 F.3d at 299. Accordingly, the government seeks dismissal I for lack of habeas jurisdiction and on
the merits but not based on § 1252.

1 obtaining travel documents to this country and thus it is reasonably foreseeable that a
2 removal of the petitioner will occur within the reasonably foreseeable future.

3 **III. CONCLUSION**

4 For the foregoing reasons, the Court should deny the Petition.

5
6 Respectfully submitted this 15th day of January 2026.

7
8 TODD BLANCHE
Deputy Attorney General of the United States

9
10 /s/ Randolph J. St. Clair
RANDOLPH J. ST. CLAIR
Assistant United States Attorney

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT INDEX

Exhibit	Description
Exhibit A	Order of Supervision, 2/10/2020
Exhibit B	Immigration Judge's Written Decision, 10/11/2019
Exhibit C	Warrant for Arrest of Alien, 8/22/2025
Exhibit D	I-213, Record of Deportable/Inadmissible Alien, 8/21/2025

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

1
2 It is hereby certified that the *United States' Response to Petitioner's Writ of Habeas Corpus*
3 (*ECF No. 1-1*) was filed through the Court's electronic filing and notice system (CM/ECF), with a
4 copy of the same served via email upon all counsel of record:

5 AFPD Margaret W. Lambrose
6 Maggie_Lambrose@fd.org

7 DATED: January 15, 2025

8
9 /s/ Randolph J. St. Clair
10 RANDOLPH J. ST. CLAIR
11 Assistant United States Attorney
12
13
14
15
16
17
18
19
20
21
22
23
24